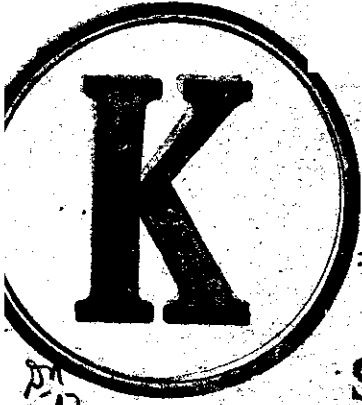


1951

File No. 0 pensions/51

Legal Department

A BRANCH



Subject:—

Opinions under the pensions Act.

1871

P. b
/ 21

File No. 0 pensions/51

608A

C O N T E N T S.

Legal Department File No. O. Pensions/47.

Sr. No.	R.I. No.	Subject	Pages.
		Opinions under the Pensions Act 1871.	
1.	8955 7/6/51.	Sec. 6. Certificate under suit relating to compen- sation in respect of use of land and water.	1-2.
2.	8539 31/5/51.	<u>Wazeffa allowance.</u> Sanction to the mutation of the name of Shri Munawar Alibag.	3-4.
3.	14145 4/9/51.	Question whether all pensions listed have been granted by executive orders and not under any statutory obligations.	5-6
4.	18029 13/11/51.	Varshasan paid to Somnath Mahadeo Temple -- Questions (1) Whether any provisions of law specifically imposes a liability on Govt. for the payment of the Varshasan (2) whether it would be a grant to which the provisions of the Pensions Act would apply.	7-8.

Pension
Act, 1871
Sections
4 and 6

Inams Vadne
Village

Legal Department.

The Inamdar has filed a suit for compensation for the use of the water of the river situate within the Inam Village of which he is the proprietor. The Inam is of the soil, and not simply of the Royal Share of the Revenue. Section 4 of the Pensions Act bars a suit relating to "any pension, or grant of Money, or Land Revenue" conferred or made by the British or any other former Government. An Inam of the soil cannot be included in the ~~term~~ ^{ve} "Pension" or "Grant of Money" or "Grant of Land Revenue". The water of the river is claimed by the Inamdar on the ground that he is the proprietor of ^{ve} everything situate within the limits of his Inam Village. The Pensions Act, 1871 is not applicable to such a claim.

Id/-

Additional Secretary to Government.

U.R. to R.D., No. 8955, dated the

7th June 1951.

Legal Department.

Wazsefa allowance
Sanction to the
mutation of the
name of Shri
Munawar Alibeg.

According to Government Resolution, Political Department, No. 4731, dated the 29th July 1873, the allowance is continuable according to the Mahomedan Law of Heirship. The last grantee of the allowance has left behind him a son and four brothers. According to Mahamedan Law of Inheritance, whether Hanafi or Shia, a son ^dexcludes the brothers (see Mulla's Mahamedan Law, pp-70 and 98) and, therefore, the brothers cannot claim any share in the allowance. There is, therefore, no objection to entering the name of Shri Munawar Alibeg, the son of the last grantee in the Government records and recognising him as the payee.

Id/-

Additional Secretary to Government.

U.R. to P. & S.D. No. 8539, dated the

31st May 1951.

ISR.

Office of the R.L.A.

The Ministry of States has under consideration the question of repealing any of the Central Acts which specifically impose a liability on the Central Government for the payment of political pensions. That Ministry has asked the Accountant General, Bombay, to forward^w a list of political pensions paid in Bombay (pages 5-9 ante) for verification. The Chief Secretary considers that all the pensions listed have been granted by executive orders and not under any statutory obligations; and since the Pensions Act, 1871 and the Rent Free Estates Act, 1852, and the rules made under those Acts do not create any liability for payment of pensions by the Central Government; the question of repealing any provisions does not arise. The R.L.A. is requested to advise.

2. None of the pensions mentioned in the list at pages 5-9 ante appear to have been granted under the authority of any provision of law; but they seem to have been granted, as stated by the Chief Secretary, (page 21A ante) by executive orders (Vide also the particulars of the pensions in the statement at pages 24-40 ante). Neither the Pensions Act, 1871, nor any other law provides for the liability

of the Government to continue to pay these pensions. Payments of political pensions are acts of State (see 37 B.L.R. 763 at page 770). The view expressed by the Chief Secretary appears to be correct.

Remembrancer of Legal Affairs.

U.R. to P. & S.D. No. 14145 dated the

4-9-1951.

MSR.

Office of the R.L.A.

The Varshasan paid to the Somnath Mahadeo Temple at Verawal Pattan had its origin in the tribute recovered by the Peshwa from the Kathiawar Chiefs. When by the treaty of 1817 between the British Government and the Peshwa the tribute of Kathiawar was ceded to the British Government, the latter continued to pay a sum of Rs. 1304/- out of the said tribute to the Gaekwar who was the trustee or guardian of the ~~Sank~~ Somnath Mahadeo Temple. The grant is to a charitable and religious endowment; and would be a "grant of money" within the meaning of that expression in section 3 of the Pensions Act, 1872. Though as stated by the Political and Services Department no provision of law specifically imposes a liability on the Government for the payment of the Varshasan, it would be a grant to which the provisions of the Pensions Act would apply.

Id/-

13/11.

Remembrancer of Legal Affairs.

U.R. to P. & S.D. No. 18029 dated

13th November 1961

MSR.